

ORIGINAL



0000060969

BEFORE THE ARIZONA CORPORATION  
RECEIVED

28

COMMISSIONERS

2006 AUG 28 P 4: 48

JEFF HATCH-MILLER, Chairman  
WILLIAM A. MUNDELL  
MIKE GLEASON  
KRISTIN K. MAYES  
BARRY WONG

AZ CORP COMMISSION  
DOCUMENT CONTROL

IN THE MATTER OF THE APPLICATION  
OF PERKINS MOUNTAIN UTILITY  
COMPANY FOR A CERTIFICATE OF  
CONVENIENCE AND NECESSITY.

DOCKET NO. SW-20379A-05-0489

IN THE MATTER OF THE APPLICATION  
OF PERKINS MOUNTAIN WATER  
COMPANY FOR A CERTIFICATE OF  
CONVENIENCE AND NECESSITY.

DOCKET NO. W-20380A-05-0490

RESPONSE BRIEF OF PERKINS MOUNTAIN UTILITY COMPANY AND PERKINS  
MOUNTAIN WATER COMPANY TO STAFF'S AUGUST 14, 2006 OPENING BRIEF

AUGUST 28, 2006

Arizona Corporation Commission  
DOCKETED

AUG 28 2006

DOCKETED BY

NR

DRAFT

Snell & Wilmer

LLP  
LAW OFFICES  
One Arizona Center, 400 E. Van Buren  
Phoenix, Arizona 85004-2202  
(602) 382-6000

## INTRODUCTION

On August 14, 2006, Perkins Mountain Water Company, Perkins Mountain Utility Company (collectively, the "Perkins Companies") and Utilities Division Staff ("Staff") filed simultaneous opening briefs addressing nine issues listed in the July 31, 2006, Procedural Order (the "Procedural Order") in these consolidated cases. In its opening brief, Staff made the following statements with which the Perkins Companies agree:

1. The Companies are the Applicant in this case.<sup>1</sup>
2. The Companies both filed applications in this case for CC&Ns.<sup>2</sup>
3. [T]he Companies still exist as separate legal entities.<sup>3</sup>
4. If the Companies are granted CC&Ns, the Companies, not Rhodes Homes [Arizona], will be responsible for providing water and wastewater services to their certificated areas.<sup>4</sup>
5. The Companies are not acting as public service corporations at this time.<sup>5</sup>
6. At this point, the Companies only actions have been to apply for CC&Ns from the Commission.<sup>6</sup>
7. At this time, the Companies are not supplying water to the design homes discussed at the procedural conference.<sup>7</sup>
8. In this case, it is not necessary to pierce the corporate veil.<sup>8</sup>

However, the Perkins Companies sharply disagree with Staff's conclusions that Rhodes Homes Arizona, LLC, ("Rhodes Homes Arizona") is acting as a public service corporation and that it violated A.R.S. § 40-281 by constructing certain infrastructure inside and outside the Golden Valley South development without a certificate of convenience and necessity ("CC&N"). The Perkins Companies note for the record that

<sup>1</sup> *Staff Opening Brief* (Aug. 14, 2006) at 2, line 3. Staff's reference to the "Companies" is to the "Perkins Companies."

<sup>2</sup> *Id.* at 2, lines 3-4.

<sup>3</sup> *Id.* at 2, line 5.

<sup>4</sup> *Id.* at 2, lines 5-7.

<sup>5</sup> *Id.* at 4, line 16.

<sup>6</sup> *Id.* at 4, lines 17-18.

<sup>7</sup> *Id.* at 4, lines 21-22.

<sup>8</sup> *Id.* at 8, line 14.

1 Rhodes Homes Arizona is not a party to these consolidated cases and has not consented to  
2 the jurisdiction of the Commission.<sup>9</sup> While the Perkins Companies will provide their  
3 assessment of the arguments made by Staff in its August 14 Opening Brief regarding  
4 Rhodes Homes Arizona, the statements contained in this Response are the statements of  
5 the Perkins Companies only and should not be construed or attributed as statements of  
6 Rhodes Homes Arizona.

#### 7 RESPONSE TO STAFF OPENING BRIEF

8 There are several fatal errors in Staff's analysis regarding Rhodes Homes Arizona.  
9 First, Staff failed to address how the Commission may *sua sponte* assert jurisdiction over  
10 Rhodes Homes Arizona—an entity which is not a party to these consolidated cases, which  
11 has not consented to the jurisdiction of the Commission, and which has not been found to  
12 be a public service corporation by a court of law. Second, the Commission has not  
13 conducted an evidentiary hearing to ascertain the relevant facts necessary to answer the  
14 nine questions. There have been no witnesses, no testimony under oath, and no  
15 opportunity for cross examination on these questions. As a result, the facts cited in Staff's  
16 Opening Brief are incomplete and in some instances inaccurate. Third, Staff failed to  
17 address the critical first part of the two-part analysis applied by the courts in determining  
18 whether or not an entity is acting as a public service corporation—that is, whether the  
19 entity meets the definition of a public service corporation set forth in Article 15, Section 2  
20 of the Arizona Constitution. Fourth, Staff mischaracterized and misapplied the holdings  
21 of important cases on the subject, including *Van Dyke v. Geary*, 244 U.S. 39 (1917) ("*Van*  
22 *Dyke*"), and *Natural Gas Service v. Serv-Yu Coop.*, 70 Ariz. 235, 219 P.2d 324 (1950)  
23 ("*Serv-Yu*").

24 When a correct analysis is applied to the actions of Rhodes Homes Arizona, it is  
25 clear that Rhodes Homes Arizona is not acting as a public service corporation, and  
26 therefore, cannot be in violation of A.R.S. § 40-281.

27 <sup>9</sup> The Commission's lack of jurisdiction over Rhodes Homes Arizona is fully addressed in  
28 a separate Motion to Vacate Oral Argument filed by the Perkins Companies  
simultaneously herewith.

1           1.     RHODES HOMES ARIZONA IS NOT A PARTY TO THESE  
2                   CONSOLIDATED CASES AND THE COMMISSION LACKS  
3                   JURISDICTION TO ADJUDICATE WHETHER RHODES HOMES  
4                   ARIZONA IS ACTING AS A PUBLIC SERVICE CORPORATION.

5           The question of whether an entity is a public service corporation is a question of  
6           law, the resolution of which is vested in the courts.<sup>10</sup> If the Commission believes that  
7           Rhodes Homes Arizona is acting as a public service corporation, the procedure is clear:  
8           the Commission must bring an action in Superior Court under A.R.S. § 40-422, which the  
9           Commission has not done. The Commission simply lacks the jurisdiction to resolve this  
10          issue on its own. This issue is more fully addressed in the Motion to Vacate Oral  
11          Argument filed this date by the Perkins Companies in these consolidated dockets. The  
12          Motion to Vacate Oral Argument is incorporated herein by this reference.

13           2.     RHODES HOMES ARIZONA IS NOT A PUBLIC SERVICE  
14                   CORPORATION UNDER THE TWO-PART ANALYSIS LAID DOWN BY  
15                   THE COURTS.

16          Arizona courts conduct a two-part analysis when determining whether an entity is a  
17          public service corporation subject to regulation by the Commission. *See Southwest Gas*  
18          *Corp. v. Arizona Corp. Comm'n*, 169 Ariz. 279 (Ct. App. 1991). Part one of the  
19          analysis—the threshold inquiry—is to determine whether the entity meets the  
20          constitutional definition of a "public service corporation" set forth in Article 15, Section 2  
21          of the Arizona Constitution. *Id.* at 286 (satisfying the "textual definition" is necessary but  
22          insufficient to classify an entity as a public service corporation); *see also* Decision 66835  
23          at 18 (2004). Only upon satisfying the constitutional definition, will the court proceed  
24          with part two of the analysis—determining whether the entity is "clothed with a public  
25          interest" by making "its rates, charges or methods of operations a matter of public  
26          concern." *Southwest Gas*, 169 Ariz. 286 (quoting *General Alarm v. Underdown*, 76 Ariz.  
27          235, 238 (1953)); *see also Arizona Corp. Comm'n v. Nicholson*, 108 Ariz. 317, 321  
28          (1972).

<sup>10</sup> *Southwest Gas Corp. v. Arizona Corp. Comm'n*, 169 Ariz. 279, 285 (1991).

A. STAFF FAILED TO ADDRESS THE FIRST PART OF THE TWO-PART ANALYSIS APPLIED BY THE COURTS IN DETERMINING WHETHER OR NOT AN ENTITY IS A PUBLIC SERVICE CORPORATION.

Staff ignores without explanation the critical first part of the two-part analysis the Commission applied as recently as 2004 in Decision 66835 (Docket E-04100A-02-0321). Staff merely recites the constitutional definition of a public service corporation and then proceeds to list the eight factors identified by the Arizona Supreme Court in *Serv-Yu* for determining whether an entity is “clothed with a public interest.” See *Staff Opening Brief* at 2. In missing the crucial threshold inquiry, Staff’s conclusion that Rhodes Homes Arizona is acting as a public service corporation is defective and cannot stand.

An entity cannot be held to be a public service corporation unless it first satisfies the definition set forth in Article 15, Section 2 of the Constitution. *Southwest Gas*, 169 Ariz. at 286; see also *General Alarm*, 76 Ariz. at 238. In Decision No. 66835, this Commission recognized that “[t]he Arizona Constitution is the starting place for any analysis of what constitutes a [public service corporation] in this state.” Decision No. 66835 at 18 (2004). Staff agreed, positing that the threshold analysis requires courts to examine whether an entity satisfies the “textual definition” set forth in the Constitution. See Staff’s Responsive Brief at 27-28 filed Oct. 24, 2005, in *Southwest Transmission v. Ariz. Corp. Comm’n*, (No. 1 CA-CV 05-0369).

In order to meet the constitutional definition of a public service corporation, an entity must be “furnishing water for irrigation, fire protection or other public purposes.” ARIZ. CONST. Art. 15, § 2. The Arizona Supreme Court has interpreted this to mean “the supplying of water, the transfer of its possession, for consumption by the user.” *Williams v. Pipe Trades Indus. Program*, 100 Ariz. 14, 20 (1966). This Commission agrees with the Supreme Court, ruling that “to furnish” not only “means to provide or supply,” but it also “connotes a transfer of possession....” Decision 66835 at 19. Staff provides not one shred of evidence that Rhodes Homes Arizona is providing, supplying or transferring

1 water for consumption by any user other than Rhodes Homes Arizona itself. Rather, Staff  
2 asserts only that Rhodes Homes Arizona is using water withdrawn from wells owned by  
3 Rhodes Homes Arizona for (i) dust suppression and grading of lots located on private  
4 property owned by Rhodes Homes Arizona and (ii) dust suppression and grading of the  
5 back nine holes of a golf course located on private property owned by Rhodes Homes  
6 Arizona.

7 While legal counsel for the Perkins Companies stated at the July 31, 2006,  
8 procedural conference in these consolidated cases that Rhodes Homes Arizona is hauling  
9 water from its well identified as GV-1 to two small on-site storage tanks used to hold  
10 water for four design homes on private property owned by Rhodes Homes Arizona, this  
11 information was inaccurate. Instead, Rhodes Homes Arizona has a contract with a third-  
12 party water hauler to deliver water to the storage tanks. The water is used for landscaping  
13 around the design homes and in the private bathrooms located within the design homes.  
14 Staff's statements in its Opening Brief that Rhodes Homes hauls water from well GV-1 to  
15 on-site storage tanks at the design homes is not accurate.

16 Not even the most strained interpretation of these facts could lead one to conclude  
17 that Rhodes Homes Arizona is providing, supplying or transferring water for consumption  
18 by any user. Staff certainly recognized the paucity of facts to support its position, and  
19 attempted to bolster its case by pointing toward future customers who may one day inhabit  
20 the Rhodes Homes Arizona property. However, it is the actual furnishing of water service  
21 to the public which "clothes" an entity with a public interest, not the mere expectation that  
22 water service will be furnished in the future. There is no water flowing through any pipes  
23 that is being transferred to any user.

24 In support of its contention that Rhodes Homes Arizona is a public service  
25 corporation, Staff relies upon the following asserted facts (which have never been entered  
26 into evidence or subject to cross examination) as support for its position:  
27  
28

- **Rhodes Homes is actively constructing water infrastructure to serve at least 350 lot reservations in Golden Valley South. Staff Opening Brief at 3, lines 4-5.**

The construction of wells, earthen reservoirs for dust suppression and grading, and approximately five miles of 24-inch ductile iron pipe by Rhodes Homes Arizona does not render Rhodes Homes Arizona a public service corporation. Moreover, it is inaccurate and misleading for Staff to assert that infrastructure is being constructed to serve a lot reservation. A "lot reservation" as defined by the Arizona Department of Real Estate ("ADRE") is a non-binding "expression of interest" by a prospective purchaser of a piece of land at some time in the future.<sup>11</sup> The ADRE's approved lot reservation form does not associate the reservation deposit in any way with the provision of utility service. Obviously, a company cannot furnish water to an "expression of interest" which may or may not result in a signed purchase contract. Staff's reliance on lot reservations as evidence that Rhodes Homes Arizona is acting as a public service corporation is nonsensical.

- **Rhodes Homes is building a golf course and has built several wells. Staff Opening Brief at 3, lines 19-20.**

Again, the threshold inquiry for determining whether an entity is a public service corporation is whether that entity is "furnishing water for irrigation, fire protection or other public purposes." ARIZ. CONST. Article 15, § 2. The fact that Rhodes Homes Arizona is grading the back nine holes of a planned golf course on its property is not a factor that any court would find relevant or significant in determining whether Rhodes Homes Arizona is a public service corporation. The fact is that developers commonly construct golf courses as amenities for their master planned communities. If the construction of a golf course renders the developer a public service corporation, then a large number of Arizona developers are acting as public service corporations. This, of course, is ridiculous. The withdrawal of water from one or more wells owned by Rhodes

<sup>11</sup> See Arizona Department of Real Estate Lot Reservation General Information and Forms, Attached hereto as Exhibit A.

1 Homes Arizona for dust suppression and grading of the golf course site do not make  
2 Rhodes Homes Arizona a public service corporation and Staff has cited no statute, rule or  
3 case which holds otherwise. Moreover, Staff has identified the grading activities on the  
4 golf course and the close proximity of a well as though those facts are significant, but  
5 provides no explanation regarding how the grading activities or the close proximity of a  
6 well could possibly constitute "furnishing water for irrigation, fire protection or other  
7 public purposes." *See Staff Opening Brief* at 3, lines 6-8. That is because they do not.

8       Regarding the construction of wells by Rhodes Homes Arizona, the Commission is  
9 aware that a developer who desires to develop a subdivision located outside an Active  
10 Management Area must demonstrate to ADRE that the water supply for the subdivision is  
11 adequate. A developer has three ways to do this. He can (i) obtain water service from a  
12 designated water provider that already has an adequate water supply; (ii) submit and  
13 obtain approval of an application for an Analysis of Adequate Water Supply from the  
14 Arizona Department of Water Resources ("ADWR"), and then obtain a water adequacy  
15 report based on that analysis; or (iii) obtain a water adequacy report from ADWR without  
16 first obtaining an Analysis of Adequate Water Supply. *See generally* A.R.S §45-108;  
17 A.A.C. R12-15-715 *et seq.*

18       These three methods of obtaining an adequate water determination for a  
19 subdivision all require the developer, not the utility company, to obtain the necessary  
20 hydrologic data to support any applications filed with ADWR. In many instances, ADWR  
21 requires the developer to construct and test wells. Indeed, that is exactly what has  
22 happened here—ADWR required Rhodes Homes Arizona, not Perkins Mountain Water  
23 Company, to construct and test its Golden Valley South wells before it issued its  
24 determination that the water supply for Golden Valley South was adequate.

25       As a condition to the approval of a CC&N, however, a water company is required  
26 to obtain water adequacy reports, analyses of adequate water supply or similar  
27 documentation from the developer who seek water service. In fact, the Commission is  
28 currently considering making a showing of water adequacy a prerequisite to issuance of a



1 CC&N. Staff's reasoning in this case is untenable because it would render every  
2 developer that works with ADWR to drill and test wells as part of its efforts to obtain  
3 acquire a water adequacy analyses or reports from ADWR a public service corporation.

- 4 • **Rhodes Homes also has constructed some earthen reservoirs for**  
5 **grading purposes and dust suppression. Staff Opening Brief at 3, lines**  
6 **14-15.**

7 The construction of temporary earthen reservoirs on private property to hold water  
8 for grading and dust suppression is not "furnishing water for irrigation, fire protection or  
9 other public purposes" and Staff has cited no statute, rule or case which holds otherwise.  
10 Rhodes Homes Arizona withdraws water from a well it owns for dust suppression and  
11 grading activities it conducts on property it owns. There is no "supplying of water" or  
12 "the transfer of its possession for consumption by the user." *Williams v. Pipe Trades*  
13 *Indus. Program*, at 20. The public does not have access to the private property of Rhodes  
14 Homes Arizona within the requested CC&N, or to the wells owned by Rhodes Homes  
15 Arizona. Again, Staff mentions the earthen reservoirs in its Opening Brief as though they  
16 have some significance, but Staff fails to explain how the existence and use of the  
17 reservoirs by Rhodes Homes Arizona constitutes "furnishing water for irrigation, fire  
18 protection or other public purposes."

- 19 • **Rhodes Homes has completed four design homes [and] ... an on-site**  
20 **tank that serves the design homes. Staff Opening Brief at 3, lines 9-12.**

21 Rhodes Homes Arizona had a contractor install two small water storage tanks for  
22 storing water to be used at the four design homes constructed on property owned by  
23 Rhodes Homes Arizona. The stored water is used for landscape watering at the design  
24 homes and for the bathrooms within the design homes. Although the design homes are  
25 open to the public, the bathrooms are not open to the public and there is no drinking water  
26 provided to the public from any faucets within the design homes. People requesting  
27 drinking water at the design homes are provide bottled water.

28 In its Opening Brief, Staff stated that "[w]ater to the design homes is from well  
GV-1" and that "[t]he water is hauled from GV-1 to an onsite tank that serves the design

homes." *Staff Opening Brief* at 3, lines 10-12. However, these statements were based on erroneous statements made by legal counsel for the Perkins Companies at the procedural conference held July 31, 2006. Hauled water for the design homes is actually provided by an unaffiliated third party known as "The Water Man." Copies of invoices from The Water Man dated July 18, 2006, and July 31, 2006, totaling \$1,240 are attached hereto as Exhibit B. Irrespective of whether water to the design homes is hauled by Rhodes Homes Arizona or The Water Man, the use of water by Rhodes Homes Arizona does not constitute "furnishing water for irrigation, fire protection or other public purposes" and Staff has cited no statute, rule or case which holds otherwise. Moreover, the fact that water for the design homes is supplied by an unaffiliated third party—and not Rhodes Homes Arizona—should sound a death knell to Staff's assertion that the Rhodes Homes Arizona is "serving" the design homes.

- **Rhodes Homes Arizona is charging a \$2,000 lot reservation fee for future water customers. *Staff Opening Brief* at 3, lines 22-25.**

As stated above, the collection of a lot reservation fee by Rhodes Homes Arizona does not render Rhodes Homes Arizona a public service corporation. A lot reservation is simply an "expression of interest" to possibly enter into a purchase contract at some point in the future. The lot reservation fees are deposited into an escrow account and subject to a full refund "at any time before the execution of a purchase contract...." A.R.S. § 32-2183.03(B). The lot reservation fee is refundable even after the ADRE issues its public report containing information about the utility providers, as well as the available water supply, if any. *See id.*; *see also* A.R.S. § 32-2183.

Contrary to Staff's assertion, Rhodes Homes Arizona is not charging a lot reservation fee for future water customers. The ADRE's approved lot reservation form used by Rhodes Homes Arizona does not associate the reservation deposit in any way with the provision of utility service. In fact, it is impossible for any entity to furnish water service to an "expression of interest" which may or may not result in a signed purchase contract. Staff's reliance on lot reservations as evidence that Rhodes Homes Arizona is

1 acting as a public service corporation is nonsensical.

- 2 • [T]here is no main extension agreement in place. Staff Opening Brief at  
3 4, line 1.

4 Staff's statement that there is no main extension agreement between Rhodes Homes  
5 Arizona and the Perkins Companies is a red herring. No main extension agreement has  
6 been executed because no main extension agreement is required at this time. The Perkins  
7 Companies have not yet obtained CC&Ns, and Rhodes Homes Arizona is not subject to  
8 A.R.S. § 40-281 because it is not a public service corporation. Moreover, the absence of a  
9 main extension agreement cannot render a company a public service corporation subject  
10 to regulation by the Commission if the company is not otherwise "furnishing water for  
11 irrigation, fire protection or other public purposes." Staff raises immaterial issues because  
12 Staff cannot overcome the underlying problem with its argument: Rhodes Homes Arizona  
13 is not acting as a public service corporation.

- 14 • Rhodes Homes has an atypical relationship with the proposed utility  
15 providers in this case .... Staff Opening Brief at 4, line 3-4.

16 There is nothing atypical about the relationship between Rhodes Homes Arizona  
17 and the Perkins Companies. There have been any number of developer-controlled utility  
18 companies in Arizona. The Commission recently recognized the separate nature of a  
19 developer whose wholly owned subsidiary sewer company was before the Commission  
20 seeking a CC&N. See Decision No. 67517. Staff in this case found that the Perkins  
21 Companies and Rhodes Homes Arizona are "separate legal entities." *Staff Opening Brief*  
22 *at 2, lines 3-5.* The nature of the relationship between Rhodes Homes Arizona is  
23 irrelevant to the central issue of whether or not Rhodes Homes Arizona is "furnishing  
24 water for irrigation, fire protection or other public purposes." Rhodes Homes Arizona  
25 does not meet the constitutional definition of a public service corporation, and its  
26 relationship with the Perkins Companies does not alter that fact.

27 **B. THE ACTIVITIES OF RHODES HOMES ARIZONA ARE NOT**  
28 **"CLOTHED WITH A PUBLIC INTEREST."**

The second part of the two-part analysis requires courts to consider eight

factor listed by the Arizona Supreme Court in *Serv-Yu* (the “*Serv-Yu* Factors”) in order to determine whether or not an entity which meets the constitutional definition of a public service corporation is “clothed with a public interest.” *Southwest Gas*, 169 Ariz. at 286 (quoting *Natural Gas Service Co. v. Serv-Yu Coop.*, 70 Ariz. 235, 237-38). However, in this instance Staff completely avoided a substantive analysis of the *Serv-Yu* Factors, opting instead for a mere summary conclusion that the “[w]hen the *Serv Yu* factors are applied to the facts and circumstances present here, it becomes clear that Rhodes Homes is acting as a public service corporation.” *Staff Opening Brief* at 3, lines 18-19.

Moreover, Staff relied on the U. S. Supreme Court case of *Van Dyke v. Geary*, 244 U.S. 39 (1917), as support for its position in this case. Staff’s reliance on *Van Dyke* is astonishing given that *Van Dyke* so clearly illustrates that Rhodes Homes Arizona is *not* a public service corporation.

In *Van Dyke*, the Supreme Court considered whether a water system constructed on private property was operating as a public service corporation.<sup>12</sup> In ruling that the water system—which served the Town of Miami, Arizona—was subject to regulation as a public service corporation, the Supreme Court focused not on the water system itself, but on the character and extent of the water use:

The property here in question was devoted by its owners to supplying a large community with a prime necessity of life. That Mrs. Van Dyke pumps the water on her own land, stores it in tanks on her own land and thence conducts it through pipes all upon her own land (the strips reserved in the streets for conduits being owned by her), and delivers it to purchasers at the boundary line between her and their properties; and that lot purchasers bought with the understanding that they might purchase water from Mrs. Van Dyke’s water system at rates fixed by her *are all facts of no significance; for the character and extent of the use make it public; and since the service is a public one the rates are subject to regulation.* *Id.* at 47-48 (emphasis added).

The *Van Dyke*’s sold water “for domestic and commercial use and for fire protection in the said town of Miami.” *Van Dyke v. Geary*, 218 F. 111, 113 (D.Ariz. 1914) *aff’d* 244 U.S. 39 (1917). With total yearly revenues of \$25,895.45 (in 1917 dollars), the Supreme Court concluded that Mrs. Van Dyke’s 675 large customers and larger base of small

---

<sup>12</sup> See 244 U.S. 39.

1 customers indicated the public “character and extent” of her service. *Van Dyke v. Geary*,  
2 244 U.S. at 47. In today's dollars, Mrs. Van Dyke's water system would generate  
3 revenues of approximately \$409,674.11<sup>13</sup> which would make the water company a Class  
4 C water company in Arizona today.<sup>14</sup>

5 Staff is correct that the Supreme Court held that Mrs. Van Dyke was operating a  
6 public service corporation. However, Staff's characterization of the operation as “a small  
7 water company” serving “a local site” misstates the facts. *Staff Opening Brief* at 2, lines  
8 26-27. Mrs. Van Dyke was actually furnishing water to at least 1,350 customers who  
9 were paying for that water service. People were actually purchasing homes in reliance on  
10 the promise of water service by the Van Dykes. Mrs. Van Dyke received annual revenues  
11 which would exceed \$400,000 if adjusted to today's dollars. In marked contrast, Rhodes  
12 Homes Arizona **does not furnish water to a single customer**. Rhodes Homes Arizona  
13 **has not received one dollar of revenue for the sale of water**. Rhodes Homes Arizona is  
14 the parent of **the Perkins Companies which have filed applications for CC&Ns** to  
15 provide water and sewer service to Golden Valley South. Rhodes Homes Arizona **has not**  
16 **sold a single home**; therefore, no person has relied upon any promise of water service by  
17 Rhodes Homes Arizona. Certainly, Rhodes Homes Arizona is not “clothed with a public  
18 interest” so as to be a public service corporation under the Constitution.

19 3. **SINCE RHODES HOMES ARIZONA IS NOT A PUBLIC SERVICE**  
20 **CORPORATION, IT CANNOT VIOLATE A.R.S. § 40-281 WHICH**  
21 **APPLIES EXCLUSIVELY TO PUBLIC SERVICE CORPORATIONS.**

22 A.R.S. § 40-281 applies exclusively to public service corporations. “A  
23 public service corporation, other than a railroad, shall not begin construction of a street  
24 railroad, a line, plant, service or system, or any extension thereof, without first having

24 <sup>13</sup> Federal Reserve Bank of Minneapolis, Inflation Calculator *available at*  
25 *<http://minneapolisfed.org/Research/data/us/calc/>* (\$25,895.45 in 1917 adjusted for  
26 inflation based upon the Consumer Price Index to \$409,674.11 in 2006 dollars) attached  
27 hereto as Exhibit D.

26 <sup>14</sup> See ARIZ. ADMIN. CODE R14-2-103 (yearly revenues between \$250,000 and \$999,999).  
27 There are currently forty-three Class C water companies, one Class C sewer company, and  
28 three Class C water/sewer companies in Arizona. *Arizona Corp. Comm'n list of Class C*  
*and D water, sewer and water/sewer companies*, prepared by Kim Battista, Arizona Corp.  
Comm'n Staff (Aug. 18, 2006) attached hereto as Exhibit C. The revenues for those  
companies range from \$257,008 to \$978,895. *Id.*

1 obtained from the commission a certificate of public convenience and necessity.” A.R.S.  
2 § 40-281(A) (2006). Since Rhodes Homes Arizona is not a public service corporation,  
3 there is not way that Rhodes Homes Arizona could be in violations of A.R.S. §40-281.  
4 Moreover, public policy suggests that the purpose of A.R.S. § 40-281 is to protect  
5 customers of public service corporations. The Commission “was established to protect  
6 our citizens from the results of speculation, mismanagement, and abuse of power.”<sup>15</sup> In  
7 order to provide such protection “[t]he Commission must certainly be given the power to  
8 prevent a public utility corporation from engaging in transactions that will so adversely  
9 affect its financial position that the ratepayers will have to make good the losses....”<sup>16</sup>

10 The public service corporation statutes were enacted so as not to jeopardize  
11 current water company customers by allowing the company to construct infrastructure  
12 without a CC&N. In this case, Rhodes Homes Arizona is constructing infrastructure at  
13 its own risk, and not at the expense of any rate payer. As a result, there is no risk to the  
14 public implicated the construction activities of Rhodes Homes Arizona. Furthermore,  
15 the design and quality of the infrastructure to be installed are supervised and approved by  
16 the Arizona Department of Environmental Quality (“ADEQ”). ADEQ must issue a  
17 Certificate of Approval to Construct before Rhodes Homes Arizona can even break  
18 ground. Once complete, ADEQ must then issue a separate certificate approving the  
19 construction. The public is adequately protected by ADEQ’s permitting requirements  
20 and oversight. “The Company may install main extensions of any diameter meeting the  
21 requirements of the Commission *or any other public agencies* having authority over the  
22 construction and operation of the water system and mains....” A.A.C. R14-2-406(H)  
23 (2006)(emphasis added).

24 4. STAFF’S EXAMPLES OF PUBLIC SERVICE CORPORATIONS  
25 CONSTRUCTING INFRASTRUCTURE PRIOR TO OBTAINING A CC&N  
26 ARE INAPPLICABLE TO THIS SITUATION.

27 Staff’s misguided reliance upon the *Coyote Wash* and *Utility Source* decisions is  
28 inapposite to the present circumstances and entirely distinguishable from the work being

<sup>15</sup> *In ex rel Woods*, 171 Ariz. 286, 296 (1992).


<sup>16</sup> *Id.* at 297.

1 done by Rhodes Homes Arizona. Indeed, no reasonable interpretation of the  
2 Commission's actions in either case can be construed so as to render Rhodes Homes  
3 Arizona subject to regulation by the Commission.

4 In *Coyote Wash*, the public service corporation, *not* the developer, was penalized  
5 for "active service connections" it installed prior to obtaining its CC&N. Decision 67157  
6 at 8 (emphasis added). In its opening brief, Staff incorrectly alluded to the possibility  
7 that Coyote Wash was also penalized for "constructing its system." *Staff Opening Brief*  
8 at 6. Staff conveniently ignored the three subsequent statements in the Decision, which  
9 indicated that the utility was *only* penalized for "providing active sewer utility service  
10 prior to the hearing...." Decision 67157 at 6-8 (2004). In *Utility Source*, unlike this  
11 case, the utility and the developer were "one and the same," satisfying the constitutional  
12 requirements of a public service corporation. Decision 67446 at 8 (2004). Although the  
13 Commission found that the public service corporation violated A.R.S. § 40-281 by  
14 constructing infrastructure, the impetus behind the penalty came from the fact that it was  
15 "providing *active* water and wastewater utility service prior to application for and receipt  
16 of a CC&N." *Id.* at 20 (emphasis added).

17 Unlike both *Coyote Wash* and *Utility Source*, Rhodes Homes Arizona is *not* a  
18 public service corporation, it is *not* serving customers, and it has *not* established *active*  
19 service connections. The Commission's brief reference to constructing wastewater  
20 infrastructure is inapplicable, because Rhodes Homes Arizona is not a public service  
21 corporation. Furthermore, unlike both *Coyote Wash* and *Utility Source*, neither the  
22 Perkins Companies nor Rhodes Homes Arizona are *actively* serving any customers.  
23 Staff's implied reliance upon these decisions as a means of regulating Rhodes Homes  
24 Arizona is entirely inappropriate and erroneous. Moreover, such a decision would render  
25 all companies that install utility infrastructure public service corporations. Such a  
26 finding is unreasonable and would adversely affect all residential development  
27 throughout the State.  
28

RESPECTFULLY SUBMITTED this 28th day of August, 2006.



Jeffrey W. Crockett  
Kimberly A. Grouse  
SNELL & WILMER  
One Arizona Center  
Phoenix, Arizona 85004-2202  
(602) 382-6234  
Attorneys for Perkins Mountain Utility  
Company, LLC, and Perkins Mountain Water  
Company, LLC

ORIGINAL and 15 copies filed this 28<sup>th</sup> day of August, 2006, with:

Docket Control  
ARIZONA CORPORATION COMMISSION  
1200 West Washington  
Phoenix, Arizona 85007

COPY hand-delivered this 28<sup>th</sup> day of August, 2006, to:

Commissioner Jeff Hatch-Miller, Chairman  
ARIZONA CORPORATION COMMISSION  
1200 West Washington  
Phoenix, Arizona 85007

Commissioner William A. Mundell  
ARIZONA CORPORATION COMMISSION  
1200 West Washington  
Phoenix, Arizona 85007

Commissioner Mike Gleason  
ARIZONA CORPORATION COMMISSION  
1200 West Washington  
Phoenix, Arizona 85007

Commissioner Kristin K. Mayes  
ARIZONA CORPORATION COMMISSION  
1200 West Washington  
Phoenix, Arizona 85007

Commissioner Barry Wong  
ARIZONA CORPORATION COMMISSION  
1200 West Washington  
Phoenix, Arizona 85007

Amy Bjelland, Administrative Law Judge  
Hearing Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington  
Phoenix, Arizona 85007



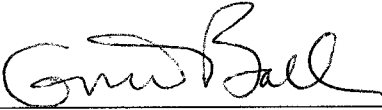
1 David Ronald, Staff Attorney  
Legal Division  
2 ARIZONA CORPORATION COMMISSION  
1200 West Washington  
3 Phoenix, Arizona 85007

4 Blessing Chukwu  
Jim J. Dorf  
5 Utilities Division Staff  
ARIZONA CORPORATION COMMISSION  
6 1200 West Washington  
Phoenix, Arizona 85007

7 COPY mailed this 28th day of August, 2006, to:

8 Booker T. Evans, Jr., Esq.  
9 Kimberly A. Warshawski, Esq.  
Greenberg Traurig, L.L.P.  
10 2375 East Camelback Road, Suite 700  
Phoenix, AZ 85016

11 Scott Fisher  
12 Sports Entertainment  
808 Buchanan Blvd., Ste. 115-303  
13 Boulder City, NV 89005

14   
15 \_\_\_\_\_  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# **ATTACHMENT A**



# STATE OF ARIZONA

## DEPARTMENT OF REAL ESTATE

JANET NAPOLITANO  
GOVERNOR

ELAINE RICHARDSON  
COMMISSIONER

2910 NORTH 44<sup>TH</sup> STREET, SUITE 100 PHOENIX, ARIZONA 85018  
TELEPHONE (602) 468-1414 FACSIMILE (602) 468-0562

400 WEST CONGRESS, SUITE 523 TUCSON, ARIZONA 85701  
TELEPHONE (520) 628-6940 FACSIMILE (520) 628-6941

"AN EQUAL EMPLOYMENT OPPORTUNITY AGENCY"

## LOT RESERVATIONS

### GENERAL INFORMATION

"Lot reservation" means an expression of interest by a prospective purchaser in buying, at some time in the future, a subdivided or unsubdivided lot, unit or parcel located in this state. In all cases, a subsequent affirmative action by the prospective purchaser must be taken to create a contractual obligation to purchase.

With the enactment A.R.S. § 32-2181.03 (which supersedes Commissioner's Rule R4-28-1202), prior to obtaining a public report from the Department of Real Estates, a lot reservation may be accepted on subdivided or unsubdivided lands and on improved or unimproved lots located in this state.

Prior to accepting any lot reservation, written notice of the seller's intention to accept lot reservations must be mailed or delivered to the Department. A notice form is attached.

The form to be used for accepting lot reservations is subject to approval by the Commissioner. A sample reservation form is attached. **RESERVATION AUTHORITY EXPIRES 2 YEARS FROM RECEIPT OF NOTICE BY THE DEPARTMENT.**

The reservation deposit for a single lot or parcel shall not exceed \$5,000.00.

All advertising and promotional materials utilized during the lot reservation period must disclose that **LOT RESERVATIONS ONLY ARE BEING TAKEN.**

Reservation deposits must be delivered to an escrow agent licensed pursuant to Title 6, Chapter 7, Arizona Revised Statutes, and deposited by the escrow agent in a depository insured by an agency of the U.S. Government.

All notices required to be given to the Department of Real Estate, the prospective buyer or the prospective seller shall be in writing and either hand-delivered or sent by certified mail, return receipt requested, with postage fully prepaid.

The Commissioner may deny authorization to accept lot reservations.

**The information above is not a complete summary of A.R.S. § 32-2181.03. You should obtain a copy of the statute and read it thoroughly for complete details.**

"Persons with disabilities may request reasonable accommodations such as interpreters, alternative formats or assistance with physical accessibility. Requests for accommodations must be made with 72 hours prior notice.

If you require special accommodations, please contact the Dept. Of Real Estates."

**NOTICE OF INTENT  
TO ACCEPT LOT RESERVATIONS**

In accordance with A. R. S. § 32-2181.03, the undersigned hereby gives notice of Seller's intent to accept lot reservations and provides the following information. (Use separate sheet if necessary)

Project Name (Recorded and marketing name, if any): \_\_\_\_\_  
\_\_\_\_\_

Project Location (Provide city, county, and detailed information on how to drive to the project):  
\_\_\_\_\_  
\_\_\_\_\_

Seller (Provide name, address and telephone number of each seller):  
\_\_\_\_\_  
\_\_\_\_\_

Broker (Provide name, address and telephone number of any real estate broker retained by seller to promote lot reservations):  
\_\_\_\_\_  
\_\_\_\_\_

**Attached to this notice is the lot reservation form, which will be used by Seller.**

**Seller understands that the Commissioner may deny authorization to accept lot reservations and that reservation authority expires 2 years from the date of this notice.**

State of \_\_\_\_\_)

County of \_\_\_\_\_)

The undersigned \_\_\_\_\_, being duly sworn, deposes and says that the statements herein contained, and the documents submitted herewith, are full, true and complete.

Date: \_\_\_\_\_

Subscribed and sworn to before this

Seller: \_\_\_\_\_

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

By (Name and Title) \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Notary Public

My commission expires \_\_\_\_\_

## LOT RESERVATION

This Reservation was made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, between \_\_\_\_\_ "Seller," and the undersigned as "Prospective Buyer."

The Prospective Buyer hereby reserves Lot \_\_\_\_\_ (the "Lot") in (Project name) \_\_\_\_\_ located in \_\_\_\_\_ County, Arizona and a deposit in the amount of \$\_\_\_\_\_ (maximum \$5,000.00), receipt of which is hereby acknowledged by the Seller, is made and accepted upon the following terms and conditions:

1. The deposit shall be delivered to \_\_\_\_\_, "Escrow Agent" and deposited by Escrow Agent within one business day of being accepted by Seller in a depository insured by an agency of the U.S. Government. Except as hereinafter set forth, the deposit shall be refunded to Prospective Buyer at any time at Prospective Buyer's option. Prospective Buyer or Seller may instruct Escrow Agent to place the deposit in an interest-bearing account with any interest earned or charges incurred in connection with the account being at or for Prospective Buyer's benefit or cost.
2. Within 15 calendar days of receipt by Seller of the "Public Report" applicable to the Lot issued by the Commissioner of the Arizona Department of Real Estate (the "Department"), Seller shall provide Prospective Buyer with a copy of the Public Report (taking a Required Receipt for Public Report) and a "Proposed Purchase Contract" (as filed with the Arizona Department of Real Estate) for the sale of the Lot to Prospective Buyer. Prospective Buyer or Seller shall have seven business days after Buyer's receipt of the Public Report and Proposed Purchase Contract to enter into a purchase contract to purchase the Lot. If Seller and prospective Buyer do not enter into a purchase contract to purchase the Lot within the seven business day period, this Reservation shall automatically terminate. Seller shall have no cancellation rights other than those set forth in this paragraph.
3. Prospective Buyer may cancel this Reservation at any time before the execution of a purchase contract by delivering written notice of termination to Seller.
4. Within five business days after this Reservation has been terminated for any reason, Seller and Escrow Agent shall refund to the Prospective Buyer the deposit made by prospective Buyer, including any interest monies earned less any account fees agreed upon, if applicable. After this refund neither the Prospective Buyer nor the Seller shall have any obligation to the other arising out of the Reservation.
5. Prospective Buyer may not transfer the rights under this Reservation without the prior written consent of Seller, and any purported transfer without the consent of Seller is voidable at the sole discretion of Seller.
6. If the Department denies the application for Public Report applicable to the Lot, within five days of notification by the Department, Seller shall notify Prospective Buyer in writing and instruct Escrow Agent to return the deposit.
7. Notices hereunder shall be in writing and either hand-delivered or sent by certified mail, return receipt requested, with postage fully prepaid. Notices sent by mail are deemed delivered on the earlier of actual receipt, as evidenced by the delivery receipt, or seven calendar days after being deposited in the U.S. Mail.

**THE ARIZONA DEPARTMENT OF REAL ESTATE HAS NOT INSPECTED OR APPROVED THIS PROJECT AND NO PUBLIC REPORT HAS YET BEEN ISSUED FOR THE PROJECT. NO OFFER TO SELL MAY BE MADE AND NO OFFER TO PURCHASE MAY BE ACCEPTED BEFORE ISSUANCE OF A PUBLIC REPORT FOR THE PROJECT.**

\_\_\_\_\_  
Buyer

\_\_\_\_\_  
Seller

\_\_\_\_\_  
Buyer

\_\_\_\_\_  
Seller

Buyer's Address: \_\_\_\_\_  
\_\_\_\_\_

Buyer's Telephone No. \_\_\_\_\_

# **ATTACHMENT B**



# Receipt STATEMENT

653903

DATE		7-31-06		TERMS	
TO					
Rhodes Homes					
ADDRESS					
1825		1807		4528	
AZTEC		AZTEC		DORA	
IN ACCOUNT WITH					
The Water Man					
1449 Carrigan Rd G.U.S.R.					
928-565-2847					
86413					
7-19	Land	\$40.00			
7-20	"	40.00			
7-24	"	40.00			
7-24	"	40.00			
7-25	"	40.00			
7-27	"	40.00			
7-28	"	40.00			
7-31	"	40.00			
		\$320.00 TOTAL			



# **ATTACHMENT C**

# Class C and D Water, Sewer, and Water/Sewer Companies in Arizona

COMPANY NAME	DOCKET NO	UTILITY TYPE	GROSS OPERATING REVENUE	# OF CUSTOMERS
Abra Water Company, Inc.	W-01782A	WATER	\$218,871.00	543
Adamant Mutual Water Company	W-01997A	WATER	\$289,457.00	249
Agua Water Services, Inc.	W-01578A	WATER	\$221,504.24	306
Alpine Water System, Inc.	W-01731A	WATER	\$122,441.00	221
Anway Manville L.L.C. Water Company	W-03233A	WATER	\$125,702.00	202
Appaloosa Water Company	W-03443A	WATER	\$115,227.54	220
Ash Fork Development Association, Inc.	W-01004B	WATER	\$272,754.00	423
Beardsley Water Company, Inc.	W-02074A	WATER	\$208,247.28	332
Beaver Dam Water Company, Inc.	W-03067A	WATER	\$158,014.00	257
Beaver Valley Water Company	W-02015A	WATER	\$73,218.00	183
Bellmont Water Co.	W-02526A	WATER	\$59,823.81	4
Berneil Water Company	W-01275A	WATER	\$603,567.00	534
Biasi Water Company, Inc.	WS-02812A	WATER	\$50,578.00	87
Bob B. Watkins	W-01906A	WATER	\$210,192.00	788
Boynton Canyon Enchantment Homeowners Association	W-02510A	WATER	\$145,910.35	101
Bradshaw Water Company, Inc.	W-02476A	WATER	\$126,208.00	152
Brooke Water LLC	W-03039A	WATER	\$968,233.00	2085
Casa Grande West Water Co., Inc.	W-01990A	WATER	\$118,547.00	272
Cayetano, Inc.	W-01809A	WATER	\$95,296.83	303
Cedar Grove Water	W-02597A	WATER	\$103,461.00	283
Cerbat Water Company	W-02391A	WATER	\$105,917.00	246
Chaparral Water Company	W-02393A	WATER	\$151,738.04	342
Chino Meadows II Water Company	W-02370A	WATER	\$345,500.67	897
Circle City Water Company, L.L.C.	W-03510A	WATER	\$64,388.00	182
Cleanwater Utilities Company, Inc.	W-01752A	WATER	\$548,533.00	749
Coldwater Canyon Water Company	W-01559A	WATER	\$74,449.00	0
Cordes Lakes Water Company	W-02060A	WATER	\$374,525.00	1268
Diablo Village Water Company	W-02309A	WATER	\$260,153.00	734
Diamond Valley Water Users Corporation	W-03263A	WATER	\$300,848.00	603
Diversified Water Utilities, Inc.	W-02859A	WATER	\$345,680.00	395
Dragon Water Company	W-01917A	WATER	\$106,050.00	130
DS Water Company	W-04049A	WATER	\$51,811.03	88
Ehrenberg Improvement Association	W-02273A	WATER	\$300,024.00	365
Elfrida Domestic Water Users Association	W-01351A	WATER	\$65,085.00	228
Estate of Pauline K. Smith Nee Jackson	W-04304A	WATER	\$82,580.03	253

# Class C and D Water, Sewer, and Water/Sewer Companies in Arizona

Farmers Water Company	W-01654A	WATER		\$479,867.00	2006
Flagstaff Ranch Water Company, Inc	W-02502A	WATER		\$112,836.00	158
Fools Hollow Water Company	W-02042A	WATER		\$138,244.47	332
Forest Highlands Water Company	W-02493A	WATER		\$388,078.15	691
Forrest G. & Alice W. Wilkerson	W-02096A	WATER		\$100,294.56	182
Fort Mohave Tribal Utilities Authority	W-02524A	WATER		\$257,008.00	864
Francesca Water Co., Inc.	W-02838A	WATER		\$57,055.75	103
Golden Shores Water Co., Inc.	W-01815A	WATER		\$537,766.00	1478
Goodman Water Company	W-02500A	WATER		\$261,051.00	479
Graham County Utilities Inc - Water	W-02527A	WATER		\$614,248.00	1103
Granite Mountain Water Company Inc.	W-02467A	WATER		\$53,386.29	81
Granite Oaks Water Users Association	W-02539A	WATER		\$242,467.00	451
Greenehaven Water Company Inc.	W-02325A	WATER		\$51,981.10	256
Groom Creek Water Users Association	W-01865A	WATER		\$63,369.08	222
High Country Pines Water Company, Inc.	W-02448A	WATER		\$76,354.00	194
Hillcrest Water Company	W-02128A	WATER		\$68,842.00	191
Holiday Enterprises Incorporated	W-01896A	WATER		\$59,041.59	158
Humboldt Water Systems, Inc.	W-02197A	WATER		\$124,302.74	297
ICR Water Users Association	W-02824A	WATER		\$163,590.00	319
J. D. Campbell	W-01157A	WATER		\$100,857.00	236
J.N.J. Enterprises L.L.C.	W-03880A	WATER		\$85,489.00	253
Joshua Valley Utility Company	W-02023A	WATER		\$286,246.00	911
Kyllo Development Corporation	W-02089A	WATER		\$195,533.18	569
La Casta Water Company Inc.	W-02542A	WATER		\$260,640.00	367
Lagoon Estates Water Company	W-01825A	WATER		\$144,590.00	386
Las Quintas Serenas Water Company	W-01583A	WATER		\$326,582.21	1010
Lazy C Water Service	W-01536A	WATER		\$96,877.02	132
Livco Water Company	W-02121A	WATER		\$102,696.00	367
Loma Linda Estates, Inc.	W-02211A	WATER		\$63,320.75	120
Lord Arizona Water Systems Inc.	W-02479A	WATER		\$118,428.00	320
Los Cerros Water Co., Inc.	W-02747A	WATER		\$346,264.00	849
Mescal Lakes Water Systems Inc.	W-02472A	WATER		\$197,935.00	483
Mohawk Utility Company	W-02341A	WATER		\$54,704.03	132
Montezuma Rimrock Water Company, L.L.C.	W-04254A	WATER		\$50,286.14	160
Morenci Water and Electric Company	W-01049A	WATER		\$844,987.00	1870
Mountain Glen Water Service	W-03875A	WATER		\$161,482.92	305
Naco Water Company, L.L.C.	W-02860A	WATER		\$185,363.81	366

# Class C and D Water, Sewer, and Water/Sewer Companies in Arizona

Navajo Water Co., Inc.	W-03511A	WATER	\$120,299.00	321
Oak Creek Water Co., No 1	W-01392A	WATER	\$290,990.00	699
Orange Grove Water Company	W-02237A	WATER	\$99,390.00	315
Park Valley Water Company	W-01653A	WATER	\$205,733.32	549
Park Water Company, Inc.	W-02353A	WATER	\$82,545.22	143
Payson Water Co., Inc.	W-03514A	WATER	\$498,678.00	1243
Peoples Valley Water Company	W-02146A	WATER	\$104,687.00	215
Picacho Water Company	W-03528A	WATER	\$262,538.00	1
Pine Valley Water Company	W-02181A	WATER	\$86,339.00	154
Pine Water Co., Inc.	W-03512A	WATER	\$778,135.00	2006
Pineview Water Co	W-01676A	WATER	\$605,199.00	1019
Ponderosa Utility Corporation	W-01717A	WATER	\$258,289.00	550
Q Mountain Water Inc.	W-02800A	WATER	\$95,931.47	433
Quail Creek Water Company	W-02514A	WATER	\$588,060.00	1307
Rancho Del Conejo Community Water Co-Op Inc.	W-02102B	WATER	\$129,320.00	314
Ray Water Company	W-01380A	WATER	\$696,737.00	1450
Ridgeview Utility Company	W-03861A	WATER	\$153,781.00	39
Rigby Water Company	W-01808A	WATER	\$144,500.00	329
Rincon Ranch Estates Water Company	W-01337A	WATER	\$191,173.17	229
Saguaro Water Company	W-01790A	WATER	\$473,074.00	704
Sandario Water Company	W-01831A	WATER	\$121,226.00	341
Shepard Water Company	W-01537A	WATER	\$54,866.00	222
Silverwell Service Corporation	W-01979A	WATER	\$91,837.00	287
Southland Utilities Company, Inc.	W-02062A	WATER	\$137,330.00	610
Spanish Trail Water Co.	W-01816A	WATER	\$140,345.00	367
Starlight Water Company, Inc.	W-02848A	WATER	\$294,431.14	536
Strawberry Water Co., Inc.	W-03513A	WATER	\$427,221.00	1051
Sun Valley Farms-Unit VI Water Company	W-02425A	WATER	\$93,991.03	220
The Burlington Northern and Santa Fe Railway Company	W-03476A	WATER	\$111,386.00	0
Thim Utility Co.	W-03293A	WATER	\$401,682.00	688
Tierra Buena Water Company	W-02076A	WATER	\$101,858.00	126
Tierra Mesa Estates Water Company, Inc.	W-02498A	WATER	\$113,121.00	229
Tonto Basin Water Co., Inc.	W-03515A	WATER	\$281,477.00	624
Tonto Hills Utility Company	W-02483A	WATER	\$141,905.00	130
Truxton Canyon Water Company, Inc.	W-02168A	WATER	\$266,384.00	733
Turner Ranches Water & Sanitation, Co.	W-01677A	WATER	\$831,212.00	1065

# Class C and D Water, Sewer, and Water/Sewer Companies in Arizona

Tusayan Water Development Association, Inc.	W-02350A	WATER	\$747,708.00	33
Valle Verde Water Company	W-01431A	WATER	\$266,468.91	845
Valley Utilities Water Co., Inc.	W-01412A	WATER	\$978,895.00	1336
Verde Lakes Water Corporation	W-02372A	WATER	\$249,944.00	787
Voyager Water Company	W-02104A	WATER	\$349,764.00	0
Walden Meadows Community Co-Op	W-02369A	WATER	\$136,368.95	286
Walnut Creek Water Company, Inc.	W-02466A	WATER	\$136,466.00	240
Water Utility of Greater Buckeye, Inc.	W-02451A	WATER	\$313,515.00	580
Water Utility of Greater Tonopah, Inc.	W-02450A	WATER	\$181,416.00	257
White Hills Water Co., Inc.	W-01982A	WATER	\$51,184.00	98
White Mountain Water Company	W-02470A	WATER	\$116,949.08	192
Willow Valley Water Company, Inc.	W-01732A	WATER	\$525,050.00	1536
Yarnell Water Improvement Association, Inc.	W-02255A	WATER	\$234,909.00	529

Southland Sanitation, Co.	SW-02390A	SEWER	\$63,227.00	0
Sweetwater Creek Utilities, Inc.	SW-03036A	SEWER	\$244,795.00	593
Verde Santa Fe Wastewater Co, Inc.	SW-03437A	SEWER	\$310,210.00	828

Ajo Improvement Company	WS-01025A	WATER/SEWER	\$762,930.00	1127
Baca Float Water Company	WS-01678A	WATER/SEWER	\$149,874.00	130
Bachmann Springs Utility Company	WS-03953A	WATER/SEWER	\$69,801.00	2
Clear Springs Utility Company, Inc.	WS-01689A	WATER/SEWER	\$219,053.00	576
Fisher's Landing Water and Sewer Works, LLC	WS-04047A	WATER/SEWER	\$159,575.00	
MHC Operating Limited Partnership	WS-03449A	WATER/SEWER	\$313,164.00	270
Rainbow Parks, Inc.	WS-03448A	WATER/SEWER	\$126,208.02	384
Sunrise Vistas Utilities Company	WS-03586A	WATER/SEWER	\$521,813.00	631
Utility Source, L.L.C.	WS-04235A	WATER/SEWER	\$137,088.74	375

## Annual Operating Revenue

CLASS C - \$250,000 to \$999,000

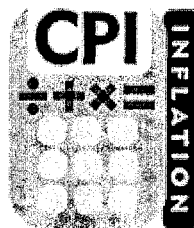
CLASS D - \$50,000 to \$249,000

Ariz. Admin. Code R14-2-103

# **ATTACHMENT D**

## What is a dollar worth?

The Consumer Price Index (CPI) is a measure of the average change in prices over time in a market basket of goods and services.



- Consumer Price Index and Inflation Rates, 1913-
- Consumer Price Index and Inflation Rates (Estimate), 1800-
- Bureau of Labor Statistics - regional and commodity/service group indexes
- How the CPI is used to make these calculations

**Directions:** Enter years as 4 digits (i.e. 1913) through 2006. Enter dollar amount without commas or \$ sign in box on first line. Click Calculate button to compute dollar amount shown on second line.

If in  (year)

I bought goods or services for \$ ,

then in  (year)

the same goods or services would cost \$



### Notes:

- Limited to years from 1913 to 2006.
- Data from consumer price indexes for all major expenditure class items.
- An estimate for 2006 is based on the change in the CPI from second quarter 2005 to second quarter 2006.
- Base year is chained; 1982-1984 = 100
- JavaScript-enabled browsers only.

### How the CPI is used to make these calculations.

- What would an item or service purchased in 2006 be worth in 19?? dollars?

#### Example:

The CPI is used to calculate how prices have changed over the years. Let's say you have \$7 in your pocket to purchase some goods and services today. How much money would you have needed in 1950 to buy the same amount of goods and services?

The CPI for 1950 = 24.1

The CPI for 2006 = 203.0

Use the following formula to compute the calculation:

1950 Price = 2006 Price x (1950 CPI / 2006 CPI)

\$0.83 = \$7.00 x (24.1 / 203.0)

- What would an item or service purchased in 19?? be worth in 2006 dollars?

**Example:**

Let's say your parents told you that in 1950 a movie cost 25 cents. How could you tell if movies have increased in price faster or slower than most goods and services? To convert that price into today's dollars, use the CPI.

The CPI for 1950 = 24.1

The CPI for 2006 = 203.0

A movie in 1950 = \$0.25

Use the following formula to compute the calculation:

2006 Price = 1950 Price x (2006 CPI / 1950 CPI)

\$2.11 = \$0.25 x (203.0 / 24.1)

A full-price movie at a Minneapolis theater costs between \$5.50 and \$8.50. Looks like movies have increased in price faster than most other goods and services.